

SUPERIOR COURT OF ARIZONA MARICOPA COUNTY

IN THE MATTER OF ARIZONA RULES OF CIVIL PROCEDURE, TO CLARIFY RULE 4, 4.1 and 4.2 AND THEIR APPLICATION TO ALL DOMESTIC RELATIONS CASES IN MARICOPA COUNTY))))	NO. 97-017 ADMINISTRATIVE ORDER
---	------------------	---

Effective December 1, 1996, the Supreme Court of the State of Arizona amended Rules 4, 4.1 and 4.2, A.R.Civ.P. In response to the rule changes and the impact on Domestic Relations cases, the Honorable Barry Schneider signed Administrative Order No. 96-074. A copy of Administrative Order 96-074 is attached and incorporated by reference as Exhibit 1. The purpose of this Administrative Order is to clarify Administrative Order No. 96-074 and Rules 4, 4.1 and 4.2 A.R.Civ.P. as they concern Domestic Relations cases. Therefore, it is:

ORDERED that in any Domestic Relations case, service of process may be accomplished as follows:

- 1. PERSONAL SERVICE BY PRIVATE PROCESS SERVER OR DEPUTY SHERIFF.** A party may choose to use the previous standard method of personal service (except certified mail which has been eliminated as noted below) by having process served personally by private process server or deputy sheriff. If a party chooses to personally serve the responding party by process server or sheriff, the party must comply with Rule 4, Rule 4.1, and Rule 4.2, A.R.Civ.P, as amended on December 1, 1996, EXCEPT:

In all domestic relations cases, good cause presumptively exists to personally serve the responding party by private process server or deputy sheriff. Strict compliance with Rules 4, 4.1 and 4.2, A.R.Civ. P. could jeopardize the safety and welfare of the parties, and children, the preservation of assets, and impede the efficient and effective use of judicial resources. Discretion remains however with the Court to determine that good cause did not exist to not use the Waiver procedure prescribed by the amendments, and thus the Court may deny costs.
- 2. WAIVER OF SERVICE.** A party may choose to send to the responding party, a Waiver of Service as described in Rules 4, 4.1 and 4.2, A.R.Civ.P. If a party chooses to use this method of service, the party must comply with Rule 4, 4.1 and Rule 4.2, A.R.Civ.P. If a party chooses to use this method of service, he or she must send with the Waiver of Service, a Notice and Request to Waive Service to the responding party that may be in the form or substantially similar to Exhibit 2 attached and incorporated by reference. The party sending the Notice and Request to Waive Service must file it with the Court.
- 3. PUBLICATION.** A party may choose to serve the other party by publication so long as this method of service is permitted under Rules 4, 4.1 and 4.2, A.R.Civ.P as amended on December 1, 1996. If a party chooses to serve the responding party by publication, the party must comply with Rules 4, 4.1, 4.2, A.R.Civ.P. as amended on December 1, 1996.
- 4. ACCEPTANCE OF SERVICE.** A party may choose to effectuate personal service by obtaining an Acceptance of Service from the served party or that party's agent for service of process. An Acceptance of Service must be in the form or substantially similar to Exhibit 3 attached and incorporated by reference.

If an Acceptance of Service is signed, the responding party has 20 days from the date the responding party signs the Acceptance of Service to file an Answer or Response if the responding party lives in Arizona, or 30 days if the responding party lives outside the State of Arizona.
- 5. SERVICE BY MAIL.** Alternative Service by Mail as defined in old Rule 4.1(c) and Service by Mail as described in old Rule 4.2(c) have been eliminated in Rule 4, 4.1 and 4.2, A.R.Civ.P. as amended on December 1, 1996. Rule 4.1(m) addresses the issue of when and if alternative means of service will be permitted.

IT IS FURTHER ORDERED:

DISCRETION OF THE COURT. In any Domestic Relations case, no matter which method of service is used, discretion remains with the Court to determine if the person responsible for service shall be reimbursed his or her service of process costs.

FEE WAIVER OR DEFERRALS. In any Domestic Relations case, the method of service used by the party responsible for service should not prohibit a fee waiver and/or deferral if that party qualifies for a fee waiver and/or deferral as defined in A.R.S. 12-302 and 12-306.

RETROACTIVE. This administrative order is retroactive to December 1, 1996.

Dated this 18th day of February, 1997.

The Honorable Barry C. Schneider, Superior Court of Arizona
Presiding Judge of the Domestic Relations Department

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

IN THE MATTER OF ARIZONA RULES) NO. 96-074
OF CIVIL PROCEDURE, RULE 4)
AND ALL DOMESTIC RELATIONS) **ADMINISTRATIVE ORDER**
CASES IN MARICOPA COUNTY)

The Supreme Court of the State of Arizona has amended Rule 4 of the A.R.Civ.P. Effective December 1, 1996, Rule 4 imposes a duty upon all parties to avoid the unnecessary costs of service of process; if reasonable, the party responsible for service should attempt service by first requesting that the other party accept service. In all domestic relations cases, it is not reasonable to require the party responsible for service to attempt service by first requesting that the other party accept service. Strict compliance with Rule 4 could jeopardize the safety and welfare of the parties, and children, the preservation of assets, and impede the efficient and effective use of judicial resources. Therefore, it is

ORDERED that in any Domestic Relations case, the party required to serve the opposing party with the documents, may serve the documents by personal service. Discretion remains with the court to determine if the person responsible for service shall be reimbursed his or her service of process costs.

ORDERED that in any Domestic Relations case, the method of service used by the party responsible for service should not prohibit a fee waiver and/or deferral if that party qualifies for a fee waiver and/or deferral as defined in A.R.S. 12-302 and 12-306.

ORDERED that in any Domestic Relations case in which an Acceptance of Service is requested, the person responsible for service must file the Notice and Request to Accept Service with the Clerk of the Court.

Dated this 27th day of November, 1996.

/s/
The Honorable Barry C. Schneider
Presiding Judge of the
Domestic Relations Department

Name of Person Filing Document:
Your Address:
Your City, State, Zipcode:
Your Telephone Number:
ATLAS NO:
Representing Self, Without a Lawyer

SUPERIOR COURT OF ARIZONA, IN MARICOPA COUNTY

(Name of Petitioner)

No.: _____

and

(Name of Respondent)

NOTICE OF COURT CASE AND
REQUEST TO WAIVE SERVICE
[To be used with Rule 4.1(c), and Rule 4.2(c)
of the Arizona Rules of Civil Procedure]

TO: _____
(Name of Person you are asking to accept service)

1. **NOTICE TO YOU.** I have started a court case that involves you. I have attached a copy of the Petition or Complaint to this Notice. I have filed the Petition or Complaint in the Superior Court of Arizona in Maricopa County.
2. **REQUEST TO SIGN.** This is not a formal summons or notification from the Court. It is a request from me to have you sign and return the enclosed Waiver of Service to save the cost of having a registered process server or the Sheriff serve you with the court papers. We will not have to pay the cost of service, if you sign and return the Waiver of Service to me. If you decide to sign the Waiver of Service, it must be returned to me within 30 days from the date of this notice if you live in the United States, or within 60 days from the date of this notice if you live outside a judicial district of the United States.
3. **ENVELOPE AND EXTRA COPIES.** I have enclosed a stamped, self-addressed, envelope for your use in returning the signed Waiver of Service to me. I have attached an extra copy of the Waiver of Service for your records.
4. **RESPONSE OR ANSWER DEADLINE.** If you return a signed Waiver of Service to me, I will file the Waiver of Service with the Court. The case will go on as if you had been served on the date the Waiver of Service is filed, and you will be required to file a Response or Answer or otherwise respond to the Petition or Complaint within sixty (60) days if you live in the United States or ninety (90) days if you live in a foreign county that is not within a judicial district within the United States.
5. **WHAT HAPPENS IF YOU DO NOT SIGN.** If you do not return a signed Waiver of Service to me within the time period allowed by law, I will be forced to hire a registered process server or the Sheriff to serve you. The law requires that both parties in a court case

cooperate in saving the unnecessary costs of service. A party who is asked to waive service and fails to do so, will be required to pay the cost of the service unless that party has a good reason for not signing the Waiver of Service.

It is not a good reason to refuse to sign the Waiver of Service, if a party believes that the Complaint or Petition is unfounded, or that the action has been brought in an improper place or in a court that does not have jurisdiction to hear the case. A party who signs the Waiver of Service retains all defenses and objections (except any defenses and objections relating to the summons or to service), and may object later to the jurisdiction of the court or to the place where the action has been brought. If you refuse to sign the Waiver of Service, I will ask the Court to require you to pay the service costs.

6. **DEFAULT JUDGMENT.** The person who signs the Waiver of Service must within the time specified on this form in number 4 above file a Response or Answer and/or Appear in Court as ordered. If a written Response or Answer is filed with the Court, it must also be mailed to the other party, or his or her lawyer, if represented by a lawyer. If the Response or Answer is not filed within this time and a Response or Answer is required to be filed by law, a default judgment may be taken against the person who signed the Waiver of Service.

DATE NOTICE SENT: _____.

(Signature of person asking the other party
to waive service)

I mailed a copy of this notice
to the other party:

Name of Other Party: _____
Address of Other Party: _____
City, State, Zipcode of Other Party: _____

Name of Person Filing Paper:
Your Address:
Your City, State, Zipcode:
Your Telephone Number:
ATLAS No:
Representing Self, Without an Attorney

SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY

Regarding:

No: _____

(Name of Petitioner)

ACCEPTANCE OF SERVICE

(Name of Respondent)

THE PERSON WHO SIGNED BELOW MAKES THESE STATEMENTS UNDER OATH:

1. COURT PAPERS: I acknowledge that I have voluntarily accepted a copy of the following legal papers:
(List each paper you received):

2. WAIVE FORMAL SERVICE. I waive formal service of process (service by a process server or sheriff), and understand by accepting these papers, it is the same as if I were personally served under Arizona Law [Rule 4, 4.1, 4.2, Arizona Rule of Civil Procedure].
3. RESPONSE DEADLINE. I am aware that by accepting service of these court papers and signing this paper, my right or obligation to file a written Response or Answer to this action is not affected. If I am a Defendant or a Respondent in this court case, I understand that if I do not agree with any relief asked for by Petitioner, I must Respond or Answer within 20 days from the day I signed the original of this Acceptance of Service, if I accepted service in Arizona, or 30 days from the day I signed the original of this Acceptance of Service, if I received the papers somewhere other than Arizona.
4. DEFAULT JUDGMENT, ORDER OR DECREE. I understand that if I do not appear and defend in this action in Court, within the time allowed by law, that I may lose my right to be heard in this case. I understand that failure to Respond or Answer could result in the Court giving the other party any and all things requested in his or her legal papers, through a Default Judgment, Order or Decree.
5. MILITARY SERVICE. I am not in the military forces of the United States of America in any capacity or I waive the protection of the Soldiers and Sailors Relief Act.

Signature of Person Accepting Service

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19____, by _____

Notary Commission Expires:

Notary Public